

Sample Agreement

AGREEMENT NUMBER
IWM-C0000000000

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

California Integrated Waste Management Board

CONTRACTOR'S NAME

2. The term of this Agreement is: April 2, 2003 through April 1, 2005

3. The maximum amount of this Agreement is: \$ Revenue

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work 5 pages

Exhibit B – Budget Detail and Payment Provisions 1 pages

Exhibit C* – General Terms and Conditions

Check mark one item below as Exhibit D:

- ☒ Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement) 9 pages
☐ Exhibit - D* Special Terms and Conditions

Items shown with an Asterisk (*) are hereby incorporated by reference and made part of this agreement as if attached hereto.
These documents can be viewed at www.dgs.ca.gov/contracts

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

BY (Authorized Signature)



DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

STATE OF CALIFORNIA

AGENCY NAME

California Integrated Waste Management Board

BY (Authorized Signature)



DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

PO Box 4025
1001 "I" Street Sacramento CA 95812-4025

**California Department of General
Services Use Only**

☐ Exempt per:

Exhibit A Scope of Work

To meet the requirements and to fulfill the terms of the Agreement, the Contractor shall complete the following six (6) tasks. These tasks outline a general approach for meeting the requirements; however, alternative approaches for some or all of these tasks may be proposed if the alternative approach meets or exceeds the requirements outlined in the Task.

A. OBJECTIVES

The objectives of the Agreement are to collect in-house recyclable materials, including but not limited to newspaper, magazines, cardboard, books, metal cans, plastic, and glass beverage containers at designated State Facilities and to deliver to designated State Facilities additional Board provided collection containers as funding becomes available. Additionally, dockside recyclable collection will be incorporated into the Agreement upon the termination of the current contract, which is scheduled to occur June 30, 2002.

B. WORK TO BE PERFORMED

The work to be performed under the Agreement is for the collection and processing of recyclable materials from State Facilities (as listed in Attachment G). The Contractor will provide all labor, equipment, personnel, customer service, scheduling, routes, quarterly reports, and payments in a timely manner as outlined in the body of this RFP.

To fulfill the terms of this contract, the Contractor shall complete the following six (6) tasks. The Board, in agreement with the Contractor, may modify the work plans as necessary during the course of the Agreement.

Task 1: Meet with Board

The Contractor will be required to meet with Board staff a total of nine (9) times, once prior to commencement of work, and once every three months (quarterly). Meetings will allow the Contractor and Board Staff to confer on contract performance matters, including but not limited to service concerns, re-occurring customer service issues, container distribution timing and locations. All meetings will occur at the Board office at,

California Integrated Waste Management Board
1001 "I" Street
Sacramento, CA 95814

All meetings will occur during regular business hours during a time agreed upon by both the Board staff and the Contractor. For estimating the cost of these meetings, the Contractor should assume that each meeting will be approximately 4 hours in duration.

Board staff will prepare an agenda two weeks prior to any meetings. The Contractor will provide information requested on the agenda, as well as, an update on issues discussed in the prior meeting. Additionally, the Contractor will be prepared to discuss any logistic or administrative issues that need to be remedied.

Additional discussions or correspondence will occur on an as needed basis via telephone, email and facsimile. Discussions may include the dockside collection of paper from Sacramento and Stockton Area State Facilities.

At the first meeting, the Contractor will provide routing information, customer service, contact numbers and contract manager contact numbers, including an emergency phone number, for Board staff to review. Board staff will review this information and provide comments within two weeks, if applicable.

Should the Agreement be extended an additional 12 (twelve) months an additional 4 (four) meetings will be required.

Task 2: Collection Plan

The Contractor will outline and implement the collection and processing methods based upon its RFP Proposal as approved by the Board. This outline, subsequently called the Collection Plan, should be developed based on the historic information provided in Attachment F and the following:

- During the course of the Agreement, the Board will provide additional collection containers to be

distributed to designated State Facilities. The Contractor will be consulted on the most effective locations for the additional containers, but the final decision will be based upon Board direction.

- The Contractor shall distribute small numbers (less than two) of containers if additional containers are necessary to meet the material generation levels or to be able to successfully change the collection frequency.
- Missed pick-ups shall be kept to a minimum. Contractor must notify the Board as to the reason for any missed pick-ups. **If missed pick-ups become frequent and/or routine, this Agreement may be terminated.**
- Servicing missed locations should occur within two (2) business days. And in no event shall occur later than five (5) days.
- Service locations shall be left in a neat and orderly manner.
- Personnel shall be courteous and professional.
- Collection personnel shall have a list of agency representatives should there be any inquiries about the service level.
- Various State Agencies have access restrictions that require collection personnel to be accompanied during the collection of recyclable materials. This requires scheduling collection dates and times with the State Facilities.
- The Contractor shall be responsive to State Agency security requests. The Contractor shall insure that all personnel have the necessary background and security clearances for the implementation of this contract at sites that require it, and provide a list to the CIWMB.
- The collection day should not change once it is established (see Attachment G).
- The collection plan should also include a plan for collecting materials from dockside locations.

Exceptions to any of the above considerations should be noted in the Collection Plan. If no exceptions are noted, it is understood that the Contractor agrees with these requirements.

The Collection Plan should include the following information:

- Collection Method

A descriptive plan that the Contractor will follow to remove the recyclable material from the State Facilities. The plan should begin at the dispatching of trucks through and including the shipping of material to a mill, broker, etc. An abbreviated example of a collection plan might include the following,

All material will be commingled in a 96-gallon wheeled cart and transferred to a rear loader or side loader collection truck parked at the curb outside the building. Collection areas will be left in a neat orderly manner. At the processing operation loads will be weighed for tracking and reporting requirements prior to discharging the load. Material is then processed to an extent to produce baled OCC (11), ONP (6), SOP (37), white Ledger (40), and glass, plastic and metal. Expected residuals include Plastics numbered greater than 2 and any material not previously listed. Material is shipped in various forms including baled, crushed and loose.

Or,

All fiber (paper) materials will be commingled into a wheeled cart and metal/beverage containers will be collected in a separate cart. Carts will be loaded into a split body automated truck or partitioned lift gate truck parked at the curb outside the building. Collection areas will be left in a neat orderly manner. At the processing operation each section of the split body will be weighed separately for tracking and reporting requirements prior to discharging the load. Material is then processed to an extent to produce

baled SOP (37), OCC (11), and glass, plastic and metal. Expected residuals include any material not previously listed. Material is shipped in various forms including baled, crushed and loose.

The above examples do not necessarily represent the best method of collection or processing. The Contractor is to determine its own methodology based on its experiences, equipment, personnel and business structure, with the intent, to be the lowest operating cost and therefore the greatest revenue returned to the Board.

- **Material Quality**

The Contractor is to identify the fiber type to be collected based on their level of processing and collection method. For example, all fiber material will be classified as Sorted White ledger or Mixed Paper. Or all fiber will be processed to a level of Sorted White Ledger, ONP (6) and Mixed Paper. This level of processing and the collection process shall not change for the term of the Agreement unless approved by the Board.

- **Equipment**

The Contractor is to identify the equipment to be used in the collection of recyclable material. This identification shall include the minimum following information:

- Equipment type,
- Equipment quantities,
- Availability of backup equipment.

- **Personnel**

The Contractor is to identify the number of personnel necessary to meet the collection requirements. Personnel listed should include, management, supervisory, customer service, equipment operators, collection personnel, etc.

The Contractor shall apply the above standards of in-house collection of recyclable materials to the dockside collection of recyclable materials.

Task 3: Final Disposition of Recyclable Materials.

It is the responsibility of the Contractor to ensure that collected material is processed and recycled to the highest beneficial use, preferably new products. To this end the Contractor is to document the final disposition of the collected material as part of the quarterly reporting requirement (see Task 5). This section of the quarterly report will include at least the following details:

- A written description of the final disposition of each of the collected material types. For example, a list of the mills where fiber materials were shipped, and/or to scrap dealers that metal materials were delivered to, etc.
- The type of material shipped. For example, ONP is shipped as number 6 or 8, Mixed paper number 1, CA Redemption Aluminum, number 1 or 2 plastics or mixed scrap, etc.
- Contact names and telephone numbers of brokers, mills, etc. should the Board decide to evaluate the material disposition.

The Contractor is to assign a customer service representative who will be the primary contact for service issues related to this Agreement. Methods and details as to how the Contractor will perform the following is based on Contractor's RPF Proposal, pursuant to Board approval:

- How customer service issues will be resolved.
- Customer Service representative's name and contact numbers (telephone(s), facsimile, email, after hours telephone, and emergency telephone numbers).
- Contract Manager's name and contact numbers (telephone, facsimile, email, and emergency).
- Customer Service operating hours.
- The method and time to resolve missed pick-ups, messy pick-ups, mixing of material by agency personnel, and property damage.
- Call back service level (i.e., call back within same business day).
- Develop a system to resolve problems that require Board assistance dealing with complex issues at pick-up locations.

The Contractor shall apply the above standards of in-house collection of recyclable materials to the dockside collection of recyclable materials.

The Contractor shall provide a summary of collection activities on a quarterly basis for the term of the Agreement. These reports shall be due on or before the 15th of the month, following the preceding quarter. For purposes of this Agreement, the reports will be due on, or before April 15, July 15, October 15 and January 15. The reports shall include the following components:

- Information from Task 3.
- A summary of the prior quarter's recyclables collected from the State agencies (defined in Section IV.D). This summary will be provided to the Board in Excel 95 format.
- Weigh tickets for loads received by the processing operation. These weigh tickets shall include a unique identification number, date, gross, tare and net weight. Copies of weigh tickets or a summary list of loads is acceptable.

Summaries shall be sent to:

- The State Agencies. Addresses to be provided prior to start of contract. Electronic submittals in Excel and MS Word format will be considered an appropriate alternative provided the Agency has email access and can print the report, if necessary.
- The Board Representative. Electronic submittal is the preferred method to submit the summary. Electronic submittal shall be in Excel and MS Word format and should be sent as an attachment to:

(E-mail address of Board Representative)

Should email not be available, a disk copy and a hard copy should be sent to:

(Name of Board Representative)
Public Diversion Assistance
California Integrated Waste Management CIWMB
1001 "I" Street
Sacramento, Ca 95814

The Contractor shall apply the above standards of in-house collection of recyclable material to the dockside collection of recyclable materials.

Task 6: Payments to the Board

The Contractor shall submit payments to the Board on a quarterly basis. The payments shall include sufficient supporting information to confirm the stated revenue. The supporting information should include the following information:

- Copies of relevant Yellow Sheet, Transacted Paper Stock Prices tables.
- Summary and numeric average of data from the Yellow Sheet pages (see example Table A).
- Summary detailing the Yellow Sheet commodity averages, the Agreement ceiling values, the percent share, the resulting revenue by material type and the total revenue due to the Board (see example Table B). Copies of tonnage weigh tickets or summary of fiber tonnage by commodity type.

The Contractor shall apply the above standards of in-house collection of recyclable materials to the dockside collection of recyclable materials.

TABLE A

Example of Documenting Yellow Sheet Commodity Data

Date	Mixed Paper (1)		News (6)		News (8)		OCC (11)		SOP (37)		White Ledger (40)	
	Low	High	Low	High	Low	High	Low	High	Low	High	Low	High
1/4/01	70	75	80	85	100	110	140	150	170	180	255	265
1/11/01	70	75	80	85	100	110	140	150	170	180	255	265
1/18/01	70	75	80	85	100	110	140	150	170	180	255	265
1/25/01	70	75	80	85	100	110	140	150	170	180	255	265
2/1/01	70	75	80	85	100	110	140	150	170	180	255	265
2/8/01	80	85	80	85	100	110	155	165	150	160	225	235
2/15/01	80	85	80	85	100	110	155	165	150	160	225	235
2/22/01	80	85	80	85	100	110	155	165	150	160	225	235
3/1/01	80	85	80	85	100	110	155	165	150	160	225	235
3/8/01	80	85	80	85	100	110	140	150	140	150	215	225
3/15/01	80	85	80	85	100	110	140	150	140	150	215	225
3/22/01	80	85	80	85	100	110	140	150	140	150	215	225
3/29/01	80	85	80	85	100	110	140	150	140	150	215	225
High/Low Ave.	\$78.65		\$82.50		\$105.00		\$149.62		\$159.62		\$238.46	

TABLE B

Example of Board Revenue Reconciliation

Quarter	Year	Material Type	Collected Quantity (1) (ton)	Average Commodity Value (2) (\$/ton)	Ceiling Value (3) (\$/ton)	Delta Value (2) - (3)	Total Shared Value (\$) *
1	2001	Sorted White Ledger (40)	320	\$158.08	\$150.00	\$8.08	\$2,584.62
1	2001	OCC (11)	15	\$80.38	\$75.00	\$5.38	\$80.77
1	2001	News (6)	12	\$37.12	\$44.00	-\$6.88	\$0.00
1	2001	Mixed Paper (1)	50	\$40.19	\$45.00	-\$4.81	\$0.00
Totals			397 Tons				\$2,665.38

* Value is greater or equal to \$0.00.

Payment submittals shall be submitted quarterly whether or not revenue is due to the Board. The Contractor shall make payments to the CIWMB's Project Recycle Fund and shall be mailed or hand delivered to:

California Integrated Waste Management Board
Accounting Office
P.O. Box 4025
Sacramento, CA 95812-4025

EXHIBIT B

INSTRUCTIONS FOR SUBMITTAL OF PAYMENT

Instructions for Submittal of Payment - The Contractor shall pay the Board on a quarterly basis for the term of the Agreement. These payments shall be due on or before the 15th of the month, following the preceding quarter. For purposes of this Agreement, the reports will be due on, or before April 15, July 15, October 15 and January 15. Quarterly Summaries shall reference contract number IWM-C0133 and shall be sent to:

California Integrated Waste Management Board
Accounting Office MS 10
PO Box 4025
Sacramento, CA 95812-4025

The quarterly payment shall include at least the following details:

- Copies of relevant Yellow Sheet, Transacted Paper Stock Prices tables.
- Summary and numeric average of data from the Yellow Sheet pages (see example Table A).
- Summary detailing the Yellow Sheet commodity averages, the Agreement ceiling values, the percent share, the resulting revenue by material type and the total revenue due to the Board (see example Table B – from IFB).
- Copies of tonnage weigh tickets or summary of fiber tonnage by commodity type.

The Contractor shall apply the above standards of in-house collection of recyclable materials to the dockside collection of recyclable materials.

EXHIBIT D
TERMS AND CONDITIONS OF STANDARD AGREEMENT

Definitions

In interpreting this Agreement, the following terms will have the meanings given to them below, unless the context clearly indicates otherwise.

- "Board" shall mean the California Integrated Waste Management Board. "Executive Director" shall mean the Executive Director of the California Integrated Waste Management Board or his/her designee. Any references to Executive Officer will mean Executive Director or his/her designee.
- "Contract Manager" shall mean the Board staff person who is responsible for monitoring this Agreement.
- "Contractor" shall mean the recipient of funds pursuant to this Agreement.
- "State" shall mean the State of California including, but not limited to, the California Integrated Waste Management Board and/or its designated officer.
- "Subcontractor" shall mean a person or entity which contracts with the Contractor to perform all or a portion of the work as specified in the Scope of Work (Exhibit A).

AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution

AMERICANS WITH DISABILITIES ACT: By signing this Agreement, Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

ANTITRUST CLAIMS: The Contractor by signing this Agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Code (GC) Sections set out below.

A. The Government Code Chapter on Antitrust claims contains the following definitions:

- 1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
- 2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. GC § 4550.

B. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. GC § 4552.

C. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. GC §4553.

D. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See GC §4554.

APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

AUDIT: Contractor agrees that the Board, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment unless a longer period of records retention is stipulated or until completion of an action and resolution of all issues which may arise as a result of any litigation, claim, negotiation or audit, whichever is later. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. GC § 8546.7, Public Contract Code (PCC) §10115 et seq., California Code Regulations (CCR) Title 2, Section 1896) If an audit reveals that the State funds are not being expended or have not been expended in accordance with this Agreement, Contractor may be required to forfeit the unexpended portion of the funds and/or repay the State for any improperly expended monies.

AVAILABILITY OF FUNDS: The Board's obligations under this Agreement are contingent upon and subject to the availability of funds appropriated for this Agreement.

BANKRUPTCY: In the event proceedings in bankruptcy are commenced against the Contractor, or if Contractor is adjudged bankrupt, or if a receiver is appointed and qualifies, then the Board may terminate this Agreement by giving Contractor five (5) days written notice.

CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in document CCC201 are hereby incorporated by reference and made a part of this Agreement by reference as if attached hereto.

CHILD SUPPORT COMPLIANCE ACT: "For any contract in excess of \$100,000, the Contractor acknowledges in accordance with, that:

- A. the Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- B. the Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all employees to the New Hire Registry maintained by the California Employment Development Department."

COMMUNICATION: All official communications from Contractor to the Board regarding this Agreement will be directed to the Contract Manager or the Executive Director, California Integrated Waste Management Board, PO Box 4025, Sacramento, CA 95812-4025.

All formal notices required by this Agreement must be given in writing and sent by prepaid certified mail, fax, personal delivery or telex.

COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

CONFIDENTIALITY/PUBLIC RECORDS: Contractor and the Board understand that each party may come into possession of information and/or data which may be deemed confidential or proprietary by the person or organization furnishing the information or data. Such information or data may be subject to disclosure under the California Public Records Act, commencing with GC § 6250, or the PCC. The Board agrees not to disclose such information or data furnished by Contractor and to maintain such information or data as confidential when so designated by Contractor in writing at the time it is furnished to the Board, only to the extent that such information or data is exempt from disclosure under the California Public Records Act and the PCC.

CONFLICT OF INTEREST: In regard to current or former state employees, Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with this Agreement, the Board must be contacted immediately for clarification:

- A. Current State Employees (PCC §10410):
 - 1. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
 - 2. No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.
- B. Former State Employees (PCC §10411):
 - 1. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
 - 2. For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (PCC§10420)

CONSULTING SERVICES: If this Agreement is for consulting services, Contractor is hereby advised of its duties, obligations and rights under PCC §§10335 through 10381.

CONTRACT MANAGEMENT: Contractor and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California. Contractor may change the designated Project Director, but the Board reserves the right to approve any substitution of the Project Director. Contractor's key personnel may not be substituted without the Board's Contract Manager's prior written approval. The Board may change the Contract Manager by notice given to Contractor at any time. Board staff will be permitted to work side by side with Contractor's staff to the extent

and under conditions that may be directed by the Contract Manager. In this connection, Board employees will be given access to all required data, working papers, etc. Contractor will not be permitted to utilize Board employees for the performance of services which are the responsibility of Contractor unless such utilization is previously agreed to in writing by the Contract Manager, and any appropriate adjustment in price is made. No charge will be made to Contractor for the services of the Board employees for coordination or monitoring functions.

CONTRACTOR EVALUATIONS: If this Agreement is for consulting services, the Contractor's performance will be evaluated by the Board. The evaluation will be prepared within sixty (60) days of the completion of this Agreement and shall remain on file by the Board for a period of thirty-six (36) months. If Contractor does not satisfactorily perform the work or service specified in this Agreement, the Board will submit a copy of the negative evaluation to the Department of General Services, Office of Legal Services, within five (5) working days of the completion of the evaluation. Upon filing an unsatisfactory evaluation with the Department of General Services, the Board shall notify and send a copy of the evaluation to Contractor within fifteen (15) days. Contractor shall have thirty (30) days to prepare and send a written response to the Board and the Department of General Services. The Board and the Department of General Services shall file Contractor's statement with the evaluation. . (PCC §10369)

CONTRACTOR NAME CHANGE: A written amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change, the Board will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

COPYRIGHTS AND TRADEMARKS: Contractor shall assign to the Board any and all rights, title and interests to any copyrightable material or trademarkable material created or developed in whole or in any part as a result of this Agreement, including the right to register for copyright or trademark of such materials. Contractor shall require that its subcontractors agree that all such materials shall be the property of the Board. Such title will include exclusive copyrights and trademarks in the name of the Board. Upon written request by Contractor, the Board may give, at the Executive Director's sole discretion, written consent to the Contractor to retain all or any part of the ownership of these rights.

CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA: When the work is to be performed in the state by a corporation, said corporation shall be qualified to do business in the State of California. "Doing business" is defined in the California Revenue and Taxation Code, Section 23101, as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Verification of corporate status shall be made by the Board to ensure that all obligations due to the state are fulfilled.

DELIVERABLES: All deliverables prepared under this Agreement shall conform to the publications guidelines for content, organization, style, and formatting as established by the Board's Public Affairs Office, which are incorporated herein by reference as if attached hereto.

If this Agreement is for the production of a report, Contractor, pursuant to GC§ 7550, shall include in the report the dollar amount and contract number of all contracts and subcontracts relating to preparation of the report. The Contractor shall also include **on the front page** of the report a disclaimer that states, "The statements and conclusions of this report are those of the contractor and not necessarily those of the California Integrated Waste Management Board, its employees, or the State of California. The State makes no warranty, express or implied, and assumes no liability for the information contained in the succeeding text."

(The Contractor is encouraged to consult with the Board's Contract Manager and editorial staff early in the development process to ensure deliverable requirements are clearly understood and to minimize the need for revisions.)

DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute, unless otherwise directed by the Board.

ENTIRE AGREEMENT: This Agreement supersedes all prior agreements, oral or written, made with respect to the subject hereof and, together with the Attachments and/or Exhibits hereto, contains the entire Agreement of the parties.

ENVIRONMENTAL JUSTICE: In the performance of this Contract, Contractor shall conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the State.

FORCE MAJEURE: Neither the Board nor the Contractor, including the Contractor's subcontractor(s), if any, will be responsible hereunder for any delay, default or nonperformance of this Agreement, to the extent that such delay, default or nonperformance is caused by an act of God, weather, accident, labor strike, fire, explosion, riot, war, rebellion, sabotage, or flood, or any other cause beyond the reasonable control of such party.

GRATUITIES: The Board may terminate this Agreement if gratuities were offered or given by the Contractor, or any agent or representative of the Contractor, to any employee of the Board, with a view toward securing a contract or securing favorable treatment with respect to awarding or amending or making a determination with respect to performance of this Agreement.

GOVERNING LAW: This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

INSURANCE: When required, Contractor must provide: 1) a Certificate of Insurance insuring the State of California, and/or 2) verification of Worker's Compensation insurance. The Contractor must provide said Certificate of Insurance and/or verification to the Board within ten (10) days after notification of the Board's intent to award the Agreement. The Agreement will not be executed nor can work begin unless said Certificate of Insurance and/or verification is provided to the Board.

The Certificate of Insurance must be in effect and shall include the following terms and conditions:

1. The State of California, its officers, agents, employees, and servants shall be included as additional insured.
2. The dates of inception and expiration of coverage shall be specified.
3. A minimum liability coverage of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined shall be specified. Coverage shall not include a deductible feature.
4. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to the Board.
5. The State of California is not liable for the payment of premiums or assessments on said policy.
6. The insurance coverage shall be on an occurrence basis only.

In the event the Certificate of Insurance should expire or be cancelled during the term of this Agreement, Contractor agrees to provide, at least thirty (30) days prior to said expiration or cancellation, a new Certificate of Insurance evidencing coverage, as provided for herein, for not less than one (1) year or for the remainder of the contractual agreement, whichever is greater. In the event Contractor fails to keep in effect at all times insurance coverage as herein provided, the Board may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.

LABOR CODE/WORKER'S COMPENSATION: Contractor needs to be aware of the provisions, which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700 et seq.)

NONDISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (GC §§ 12900 et seq.) and the applicable regulations promulgated there under (CCR, Title 2, §§ 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing GC §12990(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the CCR are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

OWNERSHIP OF DRAWINGS, PLANS AND SPECIFICATIONS: The Board will have separate and independent ownership of all drawings, design plans, specifications, notebooks, tracings, photographs, negatives, reports, findings, recommendations, data and memoranda of every description or any part thereof, prepared under this Agreement. The originals and all copies thereof will be delivered to the Board upon request. The Board will have the full right to use said originals and copies in any manner when and where it may determine without any claim on the part of the Contractor, its vendors or subcontractors to additional compensation.

PATENTS: Contractor assigns to the Board all rights, title, and interest in and to each invention or discovery that may be capable of being patented, that is conceived of or first actually reduced to practice in the course of or under this Agreement. Upon written request by Contractor, the Board may give, at the Executive Director's sole discretion, written consent to the Contractor to retain all or any part of the ownership of these rights.

PAYMENT: For services satisfactorily rendered and upon approval of the invoices, the Board agrees to compensate the Contractor in accordance with the rates specified in the Budget (Exhibit B) All invoices must include: 1) Contractor's name; 2) the contract number; 3) Contractor's mailing address; 4) itemized listing of services provided; and 5) dates that services were rendered. All invoices must be submitted in **triplicate** not more frequently than monthly in arrears to:

ATTN: Fiscal Office
California Integrated Waste Management Board
1001 "I" Street
P.O. Box 4025
Sacramento, CA 95812-4025

Final payment shall be made only when all required work has been completed to the satisfaction of the Board. Payment shall be due to the Contractor no later than forty-five (45) days from the date services are received and accepted by the Board, or no later than forty-five (45) days from the date a correct invoice is received at the above billing address, whichever is later. In the event of late payment to the Contractor, the Board may be subject to a late payment penalty in accordance with GC Section 927.6(a) except for the provisions as stated in GC Section 927.6(b) and 927.11.

PROGRESS PAYMENTS: Progress payments may be allowed when work performed under this Agreement consists of the performance of separate and distinct tasks, and approved by the Contract Manager. If approved, progress payments may be made at clearly identifiable stages of progress, based upon written progress reports submitted with the Contractor's invoices. (Separate and distinct tasks do not usually occur when the Agreement is for a finished project report or plan.) Progress payments are not allowed for contracts with a term of less than three months. Progress payments shall not be made more frequently than monthly in arrears. Progress payments shall be based on at least equivalent services rendered. (Hours worked shall not be the sole basis for progress payments.) Funds withheld for a particular task in the amount of ten (10) percent of each invoice may be paid upon completion of that task.

PUBLICITY AND ACKNOWLEDGEMENT: The Contractor agrees that it will acknowledge the Board's support whenever projects funded, in whole or in part, by this Agreement are publicized in any news media, brochures, or other type of promotional material.

RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer waste and secondary waste as defined in the PCC §§ 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in the PCC §§ 12161 and 12200. Contractor may certify that the product contains zero recycled content. (PCC §§ 10233, 10308.5, 10354) This Recycling Certification Form is available from the Contract Manager.

REMEDIES: Unless otherwise expressly provided herein, the rights and remedies hereunder are in addition to, and not in limitation of, other rights and remedies under the Agreement, at law or in equity, and exercise of one right or remedy will not be deemed a waiver of any other right or remedy.

RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body, which by law has authority to enter into an agreement, authorizing execution of the agreement.

SEVERABILITY: If any provisions of this Agreement are found to be unlawful or unenforceable, such provisions will be voided and severed from this Agreement without affecting any other provision of this Agreement. To the full extent, however, that the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement be deemed to be a valid and binding agreement enforceable in accordance with its terms.

STOP WORK NOTICE: Immediately, upon receiving a written notice to stop work, Contractor shall cease all work under this Agreement.

SUBCONTRACTORS: All subcontractors previously identified in the bid/proposal submitted are considered to be acceptable to the State. Any change or addition of subcontractors will be subject to the prior written approval of the Contract Manager or Executive Director. Upon termination of any subcontract, Contractor shall notify the Contract Manager or the Executive Director immediately. If the Board or Contractor determines that the level of expertise or the services required are beyond that provided by Contractor or its routine subcontractors, Contractor will be required to employ additional subcontractors. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the Board and any subcontractors, and no subcontract shall relieve the Contractor of its responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the Board for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the Board's obligation to make payments to the Contractor. As a result, the Board shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

SUCCESSORS: The provisions of this Agreement will be binding upon and inure to the benefit of the State and the Contractor and their respective successors.

TERMINATION: The Board shall have the right to terminate this Agreement at its sole discretion at any time upon thirty (30) days written notice given to Contractor. In the case of early termination, a final payment will be made to Contractor upon approval by the Contract Manager of a financial report, invoices for costs incurred to date of termination and a written report describing all work performed by Contractor to date of termination.

UNION ORGANIZING (For all contracts except fixed price contracts of \$50,000 or less):

Contractor by signing this agreement hereby acknowledges the applicability of GC §§ 16645 - 16649 to this Agreement.

- 1) Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.

- 2) No state funds received under this Agreement will be used to assist, promote or deter union organizing.
- 3) Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.
- 4) If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and that Contractor shall provide those records to the Attorney General upon request.

VENDOR DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other government entity.

WASTE REDUCTION: In the performance of this Agreement, Contractor shall use recycled content, recycled or reusable products, and practice other waste reduction measures, where feasible and appropriate.

WORK AUTHORIZATION: If this Agreement is for services as needed, or has clearly specified sub-categories a work authorization will be required before work can begin pursuant to this Agreement. This determination will be made by the Contract Manager, when work authorizations are required, the Contract Manager will prepare a work authorization for each item of work. Each work authorization, as appropriate, will consist of a detailed statement of the purpose, objectives or goals to be undertaken by Contractor, identification of the Contractor/subcontractor team, all significant material to be developed and delivered by Contractor, all materials to be furnished by the Board to Contractor, Contractor's estimated time schedule and person hours, billing rates and total cost of the work authorization.

1. All work authorizations will be in writing, negotiated and approved by the Contract Manager and Contractor's Project Director prior to beginning work. However, in situations where expedience is of the utmost importance, the Contract Manager may verbally authorize the Contractor to begin work following up with written authorization.
2. The level of effort required for each work authorization will vary for each proposed project. Therefore, the time lines for completion of duties to be performed will be established at the time of assignment by the Contract Manager.
3. The Board reserves the right to require Contractor to stop or suspend work on any work authorization. The Contract Manager will provide, in writing to Contractor's Project Director, notice of the date work is to be halted or suspended. Approved costs incurred to that date shall be reimbursed in accordance with this Agreement's provision.
4. Each work authorization will be numbered sequentially.
5. The actual costs of a completed, approved work authorization will not exceed the authorized amount, except if, in the performance of the work, Contractor determines that the actual cost will exceed the estimated costs, Contractor will immediately notify the Contract Manager. Upon such notification, the Contract Manager may:
 - a. Alter the scope of the work authorization to accomplish the work within the estimated costs; or
 - b. Augment the work authorization budget; or
 - c. Authorize the Contractor to complete the work for the actual costs; or
 - d. Terminate the work authorization.

Prior to exceeding the approved budget, approval must be secured in writing from the Contract Manager and the work authorization must be modified to reflect the change. If the problem occurs because Contractor is in fault, Contractor will absorb the additional costs.

To the intended users of this sample agreement:

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